



South Carolina House of Representatives

# Legislative Update

David H. Wilkins, Speaker of the House

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*NOTE: Bill summaries included in this document are prepared by the staff of the South Carolina House of Representatives and are not the expression of the legislation's sponsor(s) or the House of Representatives. The summaries are strictly for the internal use and benefit of members of the House of Representatives and are not to be construed by a court of law as an expression of legislative intent.*

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## HOUSE WEEK IN REVIEW

The House of Representatives concurred in Senate amendments to **H.4650**, legislation pertaining to **CONVERSION OR DOMESTICATION OF CORPORATIONS** in South Carolina, and ordered the bill enrolled for ratification. The legislation establishes new provisions under which a foreign corporation may become a domestic corporation subject to the South Carolina Business Corporation Act. Under the new provisions, a domesticated corporation is legally recognized as the same entity that existed prior to the domestication. The legislation also establishes new provisions for conversions and mergers of corporations, partnerships, and limited liability partnerships.

The House amended, approved, and sent to the Senate **H.4924**. This bill provides requirements, procedures, and civil and criminal penalties intended to **ENHANCE ENFORCEMENT OF PROVISIONS OF THE TOBACCO ESCROW FUND ACT AND TO SAFEGUARD THE INTEGRITY OF THE MASTER SETTLEMENT AGREEMENT**. The bill requires tobacco product manufacturers selling cigarettes in this State to certify that they are a "participating manufacturer" as defined in the Master Settlement Agreement or that they are in full compliance with the requirement to participate in the Master Settlement Agreement or deposit funds in a qualified escrow fund. The bill requires tobacco product manufacturers to provide certain "brand family" information as provided in the bill. "Brand families" are all styles of cigarettes sold under the same trademark and differentiated from one another by means of certain additional modifiers or descriptors (i.e., menthol, lights, kings, etc.).

The bill requires the Attorney General to develop and make available for public inspection a directory listing all tobacco product manufacturers that have provided certification and all brand families that are listed in the certification. The bill provides certain exceptions to this requirement.

The bill makes it unlawful to affix a stamp to a container of cigarettes of a tobacco product manufacturer or brand family not included in the directory if such a stamp is required by law.

The bill provides that it is unlawful to sell, offer, acquire, hold, own, possess, transport, import, or cause to be imported for sale in this State cigarettes of a tobacco product manufacturer or brand family not included in the directory, or to import such cigarettes for personal consumption. The bill provides penalties for persons who violate these provisions.

The bill requires and provides for a nonresident or foreign nonparticipating manufacturer that has not registered to do business in this State as a foreign corporation or business entity, to appoint and continually engage the services of an agent in this State for the service of process. Nonparticipating manufacturers who do not provide such an agent are deemed to have appointed the Secretary of State as the agent.



The bill requires cigarette distributors to report at the end of each calendar quarter, information that the Attorney General requires to facilitate compliance with these provisions.

The bill provides that cigarettes for sale in this State or imported for personal consumption in a civil or criminal violation of these provisions are declared contraband and may be seized pending adjudication of the violation. Upon determination of a violation, the cigarettes are forfeited and must be destroyed.

The bill provides that it is unlawful for a cigarette manufacturer, retailer, importer, or distributor to sell or possess counterfeit cigarettes, and a person who violates this provision is guilty of a felony punishable by fine and/or imprisonment.

The House concurred in Senate amendments to **H.4572** and enrolled the bill for ratification. This bill designates the South Carolina Tobacco Museum in the city of Mullins as the **OFFICIAL TOBACCO MUSEUM OF THE STATE**.

The House amended, approved, and sent to the Senate **H.4990**, a bill establishing a **CAPITAL ACCESS PROGRAM FOR SMALL BUSINESSES**. This bill establishes a Capital Access Program providing for flexibility in the making of loans by financial institutions to small businesses that fail to qualify for conventional or other guaranteed or assisted financing. The bill provides for the funding of a Loan Loss Reserve to repay participating financial institutions that suffer a loss on a loan. The bill provides for administration of the program by Business Development Corporation of South Carolina. The legislation establishes guidelines for selecting loan recipients and provides for record keeping and reporting requirements.

The House amended, approved, and sent to the Senate **H.4130**, the "**SOUTH CAROLINA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**." The legislation establishes a procedure to avoid the adoption of regulations that are unnecessarily burdensome to small businesses. The bill establishes a Small Business Regulatory Review Committee within the South Carolina Department of Commerce. Under the legislation, before an agency submits to the General Assembly for review a regulation that may have a significant adverse impact on small businesses, the agency, if directed by the Small Business Regulatory Review Committee, shall prepare an economic impact statement that includes the following: (a) an identification and estimate of the number of small businesses subject to the proposed regulation; (b) the projected reporting, record keeping, and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record; (c) a statement of the economic impact on small businesses; and (d) a description of less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, an agency proposing such a regulation must, if directed by the Small Business Regulatory Review Committee, prepare and submit a regulatory flexibility analysis in which the agency, where consistent with health, safety, and environmental and economic welfare, shall consider utilizing regulatory methods that accomplish the objectives of applicable statutes while minimizing a significant adverse impact on small businesses. In cases where the Small Business Regulatory Review Committee determines that information in addition to the agency's

economic impact statement is needed, the committee may request the Office of Research and Statistics of the Budget and Control Board to prepare a final assessment report. The legislation also establishes a process under which the Small Business Regulatory Review Committee may petition an agency that has promulgated regulations opposing all or part of a regulation that has a significant adverse effect on small business. The Governor by Executive Order, or the General Assembly by joint resolution, or the Small Business Regulatory Review Committee may request an agency to review its regulations to determine if they should be amended, repealed, or redrafted. Agencies must review their regulations every five years to ensure that they minimize economic impact on small businesses in a manner consistent with the stated objectives of the legislation. A small business that is adversely impacted or aggrieved in connection with the promulgation of a regulation is entitled to judicial review of agency compliance with the requirements of this legislation.

The House amended, approved, and sent to the Senate **H.4470**, a bill **CREATING THE OFFENSE OF DEFRAUDING SECURED CREDITORS**. The bill provides that a person who intentionally sells or disposes of personal property that is subject to a security interest, with the intent to defraud the secured party, without the written consent of the secured party and without paying the debt secured by the security interest within ten days after sale/disposal or, in that time, depositing the amount of the debt with the Clerk of Common Pleas for the county in which the security party resides, is guilty of a misdemeanor and, upon conviction must be fined not more than five thousand dollars and/or imprisoned for not more than one year. Exceptions are provided.

The House approved and sent to the Senate **H.5044**, a bill which **ESTABLISHES THE PHARMACY AND THERAPEUTICS COMMITTEE**, appointed by the Director of the S.C. Department of Health and Human Services (HHS), to recommend to the department therapeutic classes of drugs that should be included on a preferred drug list. The committee also will recommend, based on safety and efficacy, the drug or drugs to be considered preferred within each class of drugs. In addition, the committee will recommend prior authorization criteria for non-preferred drugs in the recommended classes. The committee will be composed of 15 members including eleven physicians and four pharmacists who provide services to the Medicaid population in this state. Committee members will not be paid for their service but may receive mileage and subsistence.

The HHS Preferred Drug List program must include:

1. procedures to ensure that a request for prior authorization that has no material defect or impropriety can be processed within twenty-four hours of receipt;
2. procedures to allow the prescribing physician to request and receive notification of any delay or negative decision in regard to a prior authorization request;
3. procedures to allow the prescribing physician to request and receive a second review of any denial of a prior authorization request; and



4. procedures to allow a pharmacist to dispense an emergency, 72-hour supply of a drug requiring prior authorization without such prior authorization if the pharmacist:
  - has made a reasonable attempt to contact the prescribing physician and request that the prescribing physician secure prior authorization; and
  - reasonably believes that refusing to dispense a seventy-two-hour supply would unduly burden the Medicaid recipient and produce undesirable health consequences.

The bill provides that, after a physician has been granted a prior authorization by HHS for a drug, no further prior authorization for the same drug at the same dosage is required. The prior authorization covers all refills of the original prescription and subsequent prescriptions as long as the time allowed by the prior authorization has not expired. A Medicaid recipient who has been denied prior authorization for a prescribed drug is entitled to appeal this decision through the department's appeals process.

The House amended, approved, and sent to the Senate **H.4975**, a bill providing for **DIRECT SUBMISSION OF CLAIMS FOR ANATOMIC PATHOLOGY SERVICES**. The legislation provides that no person licensed to practice in this State as a physician, surgeon, or osteopath, a dentist or dental surgeon, a nurse practitioner, or a physician's assistant shall charge, bill, or otherwise solicit payment for outpatient anatomic pathology services unless the services were rendered personally by the licensed practitioner or under the licensed practitioner's supervision. The bill provides that a person who is licensed to practice medicine in this State or the professional legal entity of which the person is a shareholder, partner, employee, or owner, may submit a bill for outpatient anatomic pathology services only to: (1) the patient directly; (2) the responsible insurer or other third-party payor; (3) the hospital, public health clinic, or nonprofit health clinic; or (4) the referral laboratory or the primary laboratory. The health professional licensing boards of this State are authorized to revoke, suspend, or deny the renewal of the license of any practitioner who violates these provisions. No patient, insurer, third-party payor, hospital, public health clinic, or nonprofit health clinic is required to reimburse practitioners for charges or bills submitted in violation of this legislation.

The House amended, approved, and sent to the Senate **H.4639**, regarding **LAY MEMBERSHIP ON THE STATE BOARD OF MEDICAL EXAMINERS**. This bill increases the number of lay members from one to three, thereby increasing the membership of the Board from ten to twelve. One additional lay member would be appointed by the President *Pro Tempore* of the Senate, and another would be appointed by the Speaker of the House. These two members would serve four-year terms.

The House amended, approved and sent to the Senate **H.4732**. This joint resolution establishes a **TASK FORCE ON EMERGENCY ROOM DIVERSION** to be convened by the Department of Health and Environmental Control to develop a plan for community service alternatives and/or contract alternatives for persons who

currently use emergency rooms for nonemergency health services. The legislation provides for the membership of the task force.

The House approved and sent to the Senate Joint Resolution **H.5136** which direct the Department of Health and Environmental Control to cease issuing new **AMBULANCE LICENSES** until the department has the necessary personnel to enforce existing licensure requirements. The legislation provides an exception if a demonstrated need exists, and provides licensure renewal requirements.

The House amended, approved, and sent to the Senate **H.4846**, a bill providing for the **ELECTRONIC TRANSMISSION OF REPORTS TO THE GENERAL ASSEMBLY**. The legislation provides that, with the exception of the Governor's Executive Budget and related documents and telephone directories, an agency, a department, or an entity of state government required by law to report to the General Assembly shall prepare its report and notify the members of the General Assembly by mail or email that the report is available upon request. An agency, a department, or an entity of state government may not provide the General Assembly with hard copies of a publication whether or not the publication, report, or other document is required by law to be furnished to the General Assembly, and a publication only may be provided to a member of the General Assembly if the member requests the publication. These publications must be transmitted to the Office of Legislative Printing, Information and Technology Systems (LPITS) by electronic medium to be made available through its network. Such a report may, however, be published in hard copy form if authorized by the Speaker of the House and the President Pro Tempore of the Senate.

The House amended, approved, and sent to the Senate **H.5042**, a bill providing for **ETHICS, GOVERNMENT ACCOUNTABILITY, AND CAMPAIGN REFORM ACT REVISIONS**. This bill provides that lobbyists and lobbyist's principals may not register or reregister until all late filing penalties are paid. The bill provides that a lobbyist or a person acting on behalf of a lobbyist shall not offer, solicit or provide to or on behalf of any member of the General Assembly, the Governor, the Lieutenant Governor, any other statewide constitutional officer, any public official of any state agency who engaged in covered agency actions, or any of their employees specified contributions. The bill revises the requirement that the State Ethics Commission enforce filing requirements, so as to change the assessment of the fine after a required statement has been filed and the required notice has been given. The bill clarifies that all State Ethics Commission investigations, inquiries, hearings, and accompanying documents must be confidential until final disposition of a matter unless the respondent waives this right by *written authorization* to the commission. The bill revises the exception to the reporting requirement for events to which the entire legislative body is invited, so as to authorize the exception for the entire membership of a standing committee or county legislative delegation if proper records are maintained and made available to the public for inspection and copying. The bill revises provisions relating to filing of certified campaign reports by candidates and committees, so as to clarify that if a municipal election is not held pursuant to provisions for special elections to fill vacancies in office, the candidate shall file a campaign disclosure report within fifteen days of being declared a winner or fifteen days before the established election date, whichever is sooner.



The House amended, approved, and sent to the Senate **H.4675**, a bill **REVISING PENALTIES FOR LITTERING**. The bill provides that when the sentence for a littering violation includes litter-gathering labor in addition to a fine or imprisonment, the litter-gathering portion of the sentence is mandatory and must not be suspended. However, the court, upon the request of a person convicted of such a violation, may direct that the person pay an additional monetary penalty in lieu of the litter-gathering portion of the sentence that must be equal to the amount of five dollars an hour of litter-gathering labor. Probation shall not be granted in lieu of the litter-gathering requirement except for a person's physical or other incapacities. All funds collected in lieu of the mandatory litter-gathering labor must be remitted to the county or municipality where the violation occurred to be used for litter pick up supervision. The bill revises certain penalties for littering violations and provides that a prior littering violation is limited to a violation which occurred within a period of five years. The bill also authorizes the suspension of a driver's license for failure to comply with an official Department of Natural Resources summons for a littering violation.

The House amended, approved, and sent to the Senate **H.5002**, a bill providing **REVISIONS TO CAPTIVE INSURANCE LAWS**. The bill revises captive insurance provisions so as to: enhance confidentiality requirements; provide for the licensure of non-profit companies; provide for the redomestication of foreign companies; and authorize the creation of a Special Purpose Financial Captive.

The House amended, approved, and sent to the Senate **H.4735**, a bill that provides a new definition for single-family **MODULAR HOMES**. The legislation also provides for a sales tax exemption of fifty percent of the gross proceeds of the sale of the modular home. This exemption rate applies to both off-frame and on-frame modular homes.

The House returned **S.512**, a bill relating to the **ISSUANCE OF A COMMERCIAL DRIVER'S LICENSE**, to the Senate with amendments. This bill provides that for purposes of determining eligibility to obtain or renew a commercial driver's license, the term "resident of this State" shall include persons authorized by the U.S. Citizenship and Immigration Services within the Department of Homeland Security to work in the United States. The bill provides requirements for applications for such persons, including provision of immigration and authorization documents and submission of criminal history reports. The bill provides that such persons shall not be issued an endorsement that allows the person to drive vehicles transporting hazardous materials or commercial vehicles transporting intermodal containers, vehicles carrying passengers, or school buses or school district-owned activity buses. The bill provides that the license for such persons must expire on the expiration date of the person's immigration and employment authorization document, and no more than five years from the date of its issuance. The bill provides for an annually renewable one-year license extension for persons pending adjustment or work status.

The bill provides that the Department of Motor Vehicles shall administer the State's Commercial Driver's License Program in accordance with the Federal Motor Carrier Safety Regulations.

For purposes of the South Carolina Code of Laws chapter regarding driver's licenses, the bill amends the definition of "conviction" to mean an unvacated adjudication of guilt, or determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or *nolo contendere* accepted by the court, the payment of a fine or court costs, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

The bill also adds to the statutory definition of "serious traffic violation" a conviction when operating a commercial motor vehicle of driving a commercial motor vehicle without obtaining a commercial driver's license; driving a commercial motor vehicle without a commercial driver's license in the driver's possession; driving a commercial motor vehicle without the proper class of commercial driver's license and/or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported.

Regarding administration of the skills test for a commercial license, the bill provides that the department may authorize a person, including an agency of this or another state, an employer, or a department, agency, or instrumentality of local government, to administer this test if (in addition to other existing requirements) the third party has entered into an agreement with the department which contains, among other currently required items, authorization for the department or the FMCSA or its representatives to conduct random examinations, inspections, and audits without prior notice, and to randomly test commercial driver's license applicants or holders. The bill provides that an applicant or holder who fails retesting shall lose his commercial driver's license.

Regarding disqualification of a person from driving a commercial vehicle for conviction of certain traffic violations, the bill provides that offenses committed by commercial driver's license holders in a commercial or noncommercial vehicle must be considered.

The bill provides that a vehicle may not be driven or towed through or over any railroad grade crossing until the driver has determined that the vehicle has sufficient under carriage clearance to negotiate the railroad grade crossing.

The bill also adds a list of offenses and subsequent periods of time for which a commercial driver must be disqualified from operating a commercial motor vehicle if convicted of such offenses. Regarding disqualification of a person from driving a commercial vehicle for conviction of certain traffic violations, the bill provides that offenses committed by commercial driver's license holders in a commercial or noncommercial vehicle must be considered.



The bill provides that a vehicle may not be driven or towed through or over any railroad grade crossing until the driver has determined that the vehicle has sufficient under carriage clearance to negotiate the railroad grade crossing.

The bill also adds a list of offenses and subsequent periods of time for which a commercial driver must be disqualified from operating a commercial motor vehicle if convicted of such offenses.

The House amended, approved, and sent to the Senate **H.4904**, regarding **DEALERS' TEMPORARY LICENSE PLATES**. This bill requires that these plates must contain the dealer's name, city, and phone number, or the dealer's name and computer website address. The bill requires that the plate also contain (in a format prescribed in the bill) the expiration date of the period within which the purchaser must register the vehicle. Format requirements for this expiration date include a provision that the date must be displayed so as to be legible from a distance of at least twenty-five feet. The bill also prohibits a dealer from using a temporary license plate, except in certain circumstances, for any other purpose, including but not limited to vehicle demonstrations, employee use, or transporting vehicles from one location to another. The bill prohibits a dealer from placing a temporary license plate on a vehicle until the vehicle is sold to a purchaser. The bill also provides that, in addition to the current prohibition on *issuing* a temporary plate in violation of these provisions, a person who *uses* a temporary license plate in violation of this section is guilty of a misdemeanor punishable by a one hundred dollar fine.

The House amended, approved, and sent to the Senate **H.4935**, regarding special **DUCKS UNLIMITED LICENSE PLATES**. This bill provides that these special plates may be sold to members of the public rather than exclusively to members of Ducks Unlimited. The bill also provides for the design of the plates and for approval of this design and any subsequent changes to the design in the future. The bill sets the fee for this special plate at fifty dollars and directs that funds remaining after deduction of costs for the plate will be used for wetlands conservation projects in South Carolina.

The House approved and sent to the Senate **H.4733**, regarding **ASBESTOS ABATEMENT LICENSES**. For purposes of the criteria for issuance of asbestos abatement licenses, this bill revises the definition of "asbestos abatement entity" and "asbestos project." The bill also deletes certain provisions establishing licensure fees and authorizes DHEC to establish such fees in regulation sufficient to cover reasonable costs of administering the asbestos program. The bill also increases from one thousand dollars to ten thousand dollars, the maximum civil penalty (per violation) for violations of asbestos abatement provisions.

The House approved and sent to the Senate **H.4980**. This bill provides that the Director of the Division of Livestock-Poultry Health may **AUTHORIZE EQUINE INTERSTATE EVENT PERMITS THAT MUST INCLUDE A CERTIFICATE OF VETERINARY INSPECTION, ANIMAL IDENTIFICATION, AND A CURRENT NEGATIVE COGGINS TEST**.

The House amended, approved, and sent to the Senate **H.4981**, regarding **MEAT INSPECTION REQUIREMENTS**. This bill eliminates the current provision that livestock slaughtered by a producer on the farm for the personal or family use of the owner is exempt from meat inspection requirements. The bill adds a provision that the exemption applies to the slaughter on his own premises of livestock of his own raising, and the preparation and transportation in intrastate commerce of the carcasses, parts thereof, meat and meat food products of such livestock exclusively for use by him, members of his immediate household and his nonpaying guests and employees.

The House amended, approved, and sent to the Senate **H.4756**, regarding **HUNTING SEASON FOR SMALL GAME**. This bill provides dates of March second through September thirtieth for squirrel hunting in various Game Zones, without weapons and with dogs only.

## HOUSE COMMITTEE ACTION

### AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The Agriculture, Natural Resources, and Environmental Affairs Committee reported favorable on **H.3989**, regarding **COMMERCIAL SHAD FISHING**. This bill provides that beginning July 1, 2004, there is no open season for fishing for shad for commercial purposes in the Atlantic Ocean territorial sea. The bill also provides that beginning July 1, 2004, there will be no lawful times, methods, and equipment or size and take limits for shad in the Atlantic Ocean territorial sea.

The Committee reported favorable on **H.5115**, regarding **HUNTING MIGRATORY WATERFOWL**. This bill makes it unlawful to hunt migratory waterfowl in certain coves of Lake Marion and provides penalties for violation of these prohibitions.

The Committee reported favorable on **S.496**, regarding **FEES FOR RABIES INOCULATIONS**. This bill increases from three dollars to five dollars the fee for a rabies inoculation at a rabies clinic promoted by the Department of Health and Environmental Control.

The Committee reported favorable with amendment on **H.5111**, the "**SOUTH CAROLINA DAIRY STABILIZATION ACT**." As reported by the Committee, this bill creates a thirteen member South Carolina Milk Board (the Board), whose primary duties are to establish a fair market breakeven price for milk producers; to exercise general supervision over the state milk industry; and to mediate differences between milk producers, associations, and processors. Six members of the Board must be producers of milk who represent different geographical areas of the state and who are actively engaged in dairy production at the time of selection and throughout the



member's term. Two members of the Board must be consumers; two members must be retailers; two members must be processors; and one member will be a consumer advocate. The bill provides for the Board to appoint an executive director who shall serve *ex-officio* as a non-voting Board member. Principal offices of the Board will be within the South Carolina Department of Agriculture building.

The bill provides that the Board is an instrumentality of the State and is authorized to make, adopt, and enforce regulations and issue and enforce orders necessary to carry out the purposes of the bill.

The bill requires and provides for buyer fees to be collected on all fluid milk produced in this State, and the bill requires that funds from these fees must be deposited into a special fund (the Dairy Producers Settlement Fund) and disbursed, as provided in the bill, to all producers in the State who sold or shipped milk in the month when prices fell below the fair market breakeven amount as determined by the Board.

The bill prohibits a milk "buyer" ( defined as a person who purchases, markets, or handles fluid milk directly from a South Carolina producer) from engaging in the purchase of South Carolina milk until he has obtained a license from the Board. The Board is authorized, among other actions, to invoke a monetary penalty for buyers who violate the provisions of the bill. Funds from such penalties would be deposited into the Dairy Producers Settlement Fund.

The bill requires and provides for the Board to develop an accounting system designed to show for each buyer of fluid milk under the Board's supervision, the total purchases of South Carolina milk by the buyer and the sales of milk sold in this State. The bill further requires that buyers under the supervision of the Board use this system of accounting.

The bill provides that violations of the provisions of the bill are a misdemeanor punishable by fine or imprisonment, and multiple violations may result in license or permit revocation.

The bill requires the Board to prepare an annual budget and requires the Board to collect funds required for operation of the bill's provisions from the State's dairy producers. Expenses of the Board must be met by an assessment of up to one cent per gallon of milk produced in this State.

The provisions of the bill are repealed on July 1, 2011.

The Committee reported favorable with amendment on **H.4704**, regarding **SEPTIC TANK INSTALLATIONS**. As reported by the Committee, this bill requires that an access pipe between a septic tank lid and ground level of sufficient size and design to allow tank access for monitoring the septic tank operation and performing periodic pumping must be included in a septic system installed after June 30, 2004. The bill also requires that the Department of Health and Environmental Control promulgate regulations to carry out the provisions of the bill.

The Committee reported favorable with amendment on **H.4996**, regarding **RELEASING PIGS**. As reported by the Committee, this bill provides that it is unlawful to release or transport for the purpose of release a member of the Family Suidae (pig) for hunting purposes or in an attempt to establish or supplement a free-roaming population.

## EDUCATION AND PUBLIC WORKS

The Education and Public Works Committee reported favorable with amendment on **H.4038**. As reported by the Committee, this bill **ALLOWS AN APPLICANT FOR A DRIVER'S LICENSE OR A PERMIT VOLUNTARILY TO PROVIDE AN EMERGENCY TELEPHONE NUMBER WHICH MUST BE INDICATED BY A SYMBOL ON THE DRIVER'S LICENSE AND CONTAINED IN THE DRIVER'S RECORD**.

The Committee reported favorable on **H.4565**, which enacts the **PUBLIC-PRIVATE EDUCATION FACILITIES AND INFRASTRUCTURE ACT OF 2004** to facilitate public-private partnerships for the acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, and operation of education facilities and other State public infrastructure and governmental facilities.

Among other things, the bill is intended to facilitate the bond financing provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 and other sources that support expansion and acceleration of financing qualifying projects through public-private efforts. The bill delineates processes for private entities to acquire approval of a qualifying project by the responsible public entity, and provides public entities with authority to contract for the delivery of certain services. The bill authorizes and provides for public entities to dedicate a property interest that it has for public use in a qualifying project in order to reduce the delivery time or to minimize the cost of a project to the public entity.

The bill requires and provides for agreements between public and private entities which must be entered into before projects may be undertaken, and the bill includes provisions for public entities in the event of a material default by the non-governmental entity or in the event that the public entity has cause to terminate the agreement. The bill provides that the South Carolina Consolidated Procurement Code does not apply, but the bill includes certain procedures which must be adopted by a public entity before it may enter into an agreement.

The Committee reported favorable with amendment on **H.4556**. As reported by the Committee, this bill **PROHIBITS REMOVAL OF AN OFF-PREMISES SIGN (A PERMANENT SIGN WHICH RELATES TO A PRODUCT OR SERVICE OR ACTIVITY SOLD OR OFFERED ELSEWHERE THAN UPON THE PREMISES ON WHICH THE SIGN IS LOCATED) UNTIL THE OWNER OF THE PROPERTY ON WHICH IT IS LOCATED HAS BEEN COMPENSATED FOR A LOSS WHICH MAY BE SUFFERED AS A RESULT OF THE REMOVAL OF THE SIGN THROUGH THE TERMINATION OF A LEASE OR OTHER FINANCIAL ARRANGEMENT WITH THE OWNER OF THE OFF-PREMISES SIGN**. The compensation must include damage to the landowner's



property occasioned by removal of the sign. The local governing body is limited to an expenditure of five million dollars for the local governing body's part of just compensation. The bill requires that the local governing body must make a reasonable effort to relocate the sign to a comparable site acceptable to the local governing body and the sign owner, and the local governing body must play for relocating the sign.

The bill requires and provides for the local governing body to hold a public hearing before taking final action to remove signs. The bill provides that if the sign owner or the owner of the real property upon which the sign is located disagree with the amount of compensation, the owner may appeal to a court of competent jurisdiction.

The Committee reported favorable with amendment on **H.4653, THE SOUTH CAROLINA PARENTAL RESPONSIBILITIES ACT OF 2004**. As reported by the Committee, this bill requires school districts to adopt a student disciplinary policy that outlines expectations for student conduct and consequences for inappropriate behavior and other infractions. The bill provides that if a parent fails to attend, participate, or respond to a public school's third request for a "conference" (defined as a face-to-face meeting, conference call, or telephone conversation) to discuss the child's academic progress or the child's alleged violation of school rules or regulations, the district may file a complaint with the Magistrate to compel the presence of the parent at a face-to-face conference with the school. The bill delineates evidence which the district must provide indicating reasonable attempts to schedule conferences at a time that does not conflict with the parent's employment hours, and indicating certain written notice of the conference to the address of the parent. The bill provides that if the parent fails to obey the Magistrate's order to attend a face-to-face conference, the district shall file a motion for an order holding the parent in contempt of court. If the Magistrate finds the parent in contempt of court, the bill provides options for sentencing including any one or a combination of the following: attendance at a district-sponsored parental responsibility program, shadowing the child, a fine of up to five hundred dollars, and imprisonment for up to thirty days for each violation.

The bill encourages and provides for employers to grant employees leave from work to attend conferences if the conference cannot be scheduled during the employee's nonworking hours.

The bill requires the State Department of Education to develop training programs for school personnel who work with students at risk of school failure and those students' parents.

The bill also includes plans and procedures for truancy, including but not limited to a requirement that school district boards must adopt an attendance policy and the district's schools must implement attendance plans based on that policy. These plans must include consideration for parental training on their role in supporting school attendance; providing parents with study guides on the child's courses; developing parent support groups, and using in-school mentors.

The bill amends current provisions relating to procedures for school districts regarding parents who do not enroll their children in school and the bill strengthens punishment (increases the potential fine) for parents who fail to comply with a court order to enroll their child. The bill includes requirements for district school boards to notify students and parents of attendance laws and penalties and provides revised procedures for school districts to follow when pursuing excessive unlawful absences (ten or more) through the family court. The bill also outlines options and procedures for the court regarding parents and students who fail to comply with attendance requirements.

The bill also requires school districts to notify the Department of Motor Vehicles if a student has been expelled and requires the DMV, except under certain hardship conditions, to suspend the student's driver's license for the length of the expulsion.

The Committee reported favorable on H.4557, which **REPEALS THE CURRENT SECTION OF LAW WHICH REQUIRES A CERTAIN LEVEL OF FINANCIAL EFFORT PER PUPIL FROM EACH SCHOOL DISTRICT.**

The Committee reported favorable with amendment on H.5080, a bill which **CREATES THE CAROLINA PUBLIC CHARTER SCHOOL DISTRICT (the District).** As reported by the Committee, this bill creates the District as a statewide public body which must be considered a local education agency eligible to receive state and federal funds and grants available for public charter and other schools. The bill provides that the District must not have a local tax base and may not receive local property taxes. The bill provides for governance of the District by a board with three members appointed by the Governor, three appointed by the Speaker of the House, and three appointed by the President *Pro Tempore* of the Senate. The bill provides for terms of service and authority of the board, including but not limited to the authority to exercise general supervision over public charter schools sponsored by the District and to grant charter status to qualifying applicants for public charter schools.

The Committee reported favorable with amendment on H.4800, regarding **IMMOBILIZED VEHICLES OF PERSONS CONVICTED OF CERTAIN ALCOHOL-RELATED OFFENSES.** As reported by the Committee, this bill deletes language providing punishment for a person who falsifies a report concerning vehicles owned by or registered to that person. The bill also deletes the current provision which requires the court to assess a forty dollar fee for each motor vehicle owned by or registered to the person of convicted of certain alcohol-related offenses and adds a provision requiring payment of a fifty dollar fee for each vehicle that was suspended before a suspended registration and license plate may be reinstated.

The Committee reported favorable with amendment on H.4801. As reported by the Committee, this bill provides that **A PERSON WHO IS ISSUED A SPECIAL RESTRICTED DRIVER'S LICENSE AFTER HIS LICENSE IS SUSPENDED FOR REFUSING TO SUBMIT TO ALCOHOL CONCENTRATION TESTING OR FOR REGISTERING A CERTAIN LEVEL OF ALCOHOL CONCENTRATION IS INELIGIBLE FOR ISSUANCE OF A SPECIAL RESTRICTED DRIVER'S LICENSE.** The bill also



provides that **ONLY ONE PROVISIONAL DRIVER'S LICENSE MAY BE ISSUED TO A PERSON IN A TEN YEAR PERIOD.**

The Committee reported favorable with amendment on **H.4802**, a bill which **REVISES PROCEDURES FOR REINSTATEMENT OF A DRIVER'S LICENSE WHICH HAS BEEN REVOKED FOR DRIVING UNDER THE INFLUENCE.** The bill also revises provisions regarding notification of suspension of a driver's license; unlawful use of a driver's license; fraudulent application for a driver's license; unlawful alteration of a driver's license; issue or sale of a fictitious driver's license; or use of another person's driver's license. The bill revises notification procedures regarding habitual offenders who are convicted of operating a vehicle while the decision of the Department of Motor Vehicles (DMV) prohibiting the operation is in effect. In such instances, the court , rather than the DMV, would notify the Solicitor or Attorney General and he shall cause the appropriate criminal charges to be lodged against the offender.

The Committee reported favorable on **H.4805**. This bill revises provisions relating to the requirement for verification that an operator of a motor vehicle involved in an accident that results in property damage has liability insurance coverage, so as to **REVISE TO ONE THOUSAND DOLLARS OR MORE THE MINIMUM AMOUNT OF PROPERTY DAMAGE THAT MUST OCCUR BEFORE INSURANCE VERIFICATION MUST BE OBTAINED.**

The Committee reported favorable with amendment on **H.4758**, a bill which authorizes and provides for **CAROLINA PANTHERS SPECIAL MOTOR VEHICLE LICENSE PLATES.**

The Committee reported favorable with amendment on **H.4848**, a bill which **AUTHORIZES AND PROVIDES FOR "VIETNAM VETERAN" SPECIAL LICENSE PLATES.**

The Committee reported favorable on **H.5101**, which **PROVIDES A DEFINITION FOR "LOW-SPEED VEHICLES" AND PROVIDES FOR REGULATION OF OPERATION OF THESE VEHICLES.**

## JUDICIARY

The full House Judiciary Committee met on Tuesday, April 20, and reported out several bills.

The committee gave a report of favorable with amendment on **H.5042**, a bill providing for **ETHICS, GOVERNMENT ACCOUNTABILITY, AND CAMPAIGN**

**REFORM ACT REVISIONS.** This bill provides that lobbyists and lobbyist's principals may not register or reregister until all late filing penalties are paid. The bill provides that a lobbyist or a person acting on behalf of a lobbyist shall not offer, solicit or provide to or on behalf of any member of the General Assembly, the Governor, the Lieutenant Governor, any other statewide constitutional officer, any public official of any state agency who engaged in covered agency actions, or any of their employees specified contributions. The bill revises the requirement that the State Ethics Commission enforce filing requirements, so as to change the assessment of the fine after a required statement has been filed and the required notice has been given. The bill clarifies that all State Ethics Commission investigations, inquiries, hearings, and accompanying documents must be confidential until final disposition of a matter unless the respondent waives this right by *written authorization* to the commission. The bill revises the exception to the reporting requirement for events to which the entire legislative body is invited, so as to authorize the exception for the entire membership of a standing committee or county legislative delegation if proper records are maintained and made available to the public for inspection and copying. The bill revises provisions relating to filing of certified campaign reports by candidates and committees, so as to clarify that if a municipal election is not held pursuant to provisions for special elections to fill vacancies in office, the candidate shall file a campaign disclosure report within fifteen days of being declared a winner or fifteen days before the established election date, whichever is sooner.

The committee gave a report of favorable with amendment on **H.3881**, a bill providing for **TORT CLAIMS ACT REVISIONS**. This bill revises the definition of "employee" used in the South Carolina Tort Claims Act, so as to include members of the South Carolina National Guard, members of the South Carolina State Guard, persons acting on behalf or in service of a governmental unit without pay or compensation, court-appointed attorneys, and public defenders. The bill also provides that, for the purposes of the Tort Claims Act, court-appointed attorneys and public defenders are considered employees of the State and not of the county in which they serve.

The committee gave a report of favorable with amendment on **H.4721**, a bill pertaining to **THEFT OF SERVICES** such as health care, legal, plumbing, electrical, mechanical, or other repair, installation, or maintenance activities. The legislation establishes criteria for failure to pay for services rendered as well as criteria for determining intent to avoid payment. The bill establishes criteria for notification of failure to pay for services rendered. A mechanism is provided under which an individual who brings an action for actual damages for theft of services is also entitled to certain punitive damages.

The committee gave a report of favorable with amendment on **H.4846**, a bill providing for the **ELECTRONIC TRANSMISSION OF REPORTS TO THE GENERAL ASSEMBLY**. The legislation provides that, with the exception of the Governor's Executive Budget and related documents and telephone directories, an agency, a department, or an entity of state government required by law to report to the General Assembly shall prepare its report and notify the members of the General Assembly by mail or email that the report is available upon request. An agency, a department, or an entity of state government may not provide the General



Assembly with hard copies of a publication whether or not the publication, report, or other document is required by law to be furnished to the General Assembly, and a publication only may be provided to a member of the General Assembly if the member requests the publication. These publications must be transmitted to the Office of Legislative Printing, Information and Technology Systems (LPITS) by electronic medium to be made available through its network. Such a report may, however, be published in hard copy form if authorized by the Speaker of the House and the President Pro Tempore of the Senate.

H.3190, the "**RIGHT TO LIFE ACT OF SOUTH CAROLINA**," failed.

## **LABOR, COMMERCE AND INDUSTRY**

The full House Labor, Commerce and Industry Committee met on Tuesday, April 20, and reported out several bills.

The committee gave a report of favorable with amendment on H.4990, a bill establishing a **CAPITAL ACCESS PROGRAM FOR SMALL BUSINESSES**. This bill establishes a Capital Access Program providing for flexibility in the making of loans by financial institutions to small businesses that fail to qualify for conventional or other guaranteed or assisted financing. The bill provides for the funding of a Loan Loss Reserve to repay participating financial institutions that suffer a loss on a loan. The bill provides for administration of the program by Business Development Corporation of South Carolina. The legislation establishes guidelines for selecting loan recipients and provides for record keeping and reporting requirements.

The committee gave a report of favorable with amendment on H.5078, a bill **PROHIBITING CERTAIN EXCLUSIVE CONTRACTS WITH A TELECOMMUNICATIONS SERVICE PROVIDER**. This legislation prohibits telecommunications service providers from entering into contracts that prevent other telecommunications service providers from obtaining easements on rights-of-way from property owners. The Public Service Commission's Office of Regulatory Staff is authorized to receive and review contracts, agreements, and arrangements that are subject to these provisions. Penalties are provided for violations.

The committee gave a report of favorable with amendment on H.4975, a bill providing for **DIRECT SUBMISSION OF CLAIMS FOR ANATOMIC PATHOLOGY SERVICES**. The legislation provides that no person licensed to practice in this State as a physician, surgeon, or osteopath, a dentist or dental surgeon, a nurse practitioner, or a physician's assistant shall charge, bill, or otherwise solicit payment for outpatient anatomic pathology services unless the services were rendered personally by the licensed practitioner or under the licensed practitioner's supervision. The bill provides that a person who is licensed to practice medicine in this State or the professional legal entity of which the person is a shareholder, partner, employee, or owner, may submit a bill for outpatient anatomic pathology services only to: (1) the patient directly; (2) the responsible insurer or other third-party payor; (3) the hospital, public health clinic, or nonprofit health clinic; or

(4) the referral laboratory or the primary laboratory. The health professional licensing boards of this State are authorized to revoke, suspend, or deny the renewal of the license of any practitioner who violates these provisions. No patient, insurer, third-party payor, hospital, public health clinic, or nonprofit health clinic is required to reimburse practitioners for charges or bills submitted in violation of this legislation.

## MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The Medical, Military, Public and Municipal Affairs Committee reported favorable with amendment on **H.4732**, a joint resolution which **AUTHORIZES THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL (DHEC) TO ESTABLISH A TASK FORCE ON EMERGENCY ROOM DIVERSION**. The task force will develop a plan for community service or contract alternatives for people who use emergency rooms for non-emergency health services. The membership on the task force must include, but is not limited to, representatives of the following:

- South Carolina Medical Association;
- South Carolina Academy of Family Physicians;
- South Carolina Hospital Association;
- Emergency Medical Services Association;
- South Carolina Sheriff's Association;
- Partners in Crisis;
- Probate Court Judges Association;
- South Carolina Psychiatric Association;
- South Carolina Department of Mental Health;
- South Carolina College of Emergency Room Physicians

The task force will submit a plan and budget to reduce inappropriate use of emergency rooms and to provide more appropriate services, to the House Medical, Military, Public and Municipal Affairs Committee and to the Senate Medical Affairs Committee before January 1, 2005.

The Committee reported favorable on **H.5044**, a bill which **ESTABLISHES THE PHARMACY AND THERAPEUTICS COMMITTEE, APPOINTED BY THE DIRECTOR OF THE S.C. DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS), TO RECOMMEND TO THE DEPARTMENT THERAPEUTIC CLASSES OF DRUGS THAT SHOULD BE INCLUDED ON A PREFERRED DRUG LIST**. The committee also will recommend, based on safety and efficacy, the drug or drugs to be considered preferred within each class of drugs. In addition, the committee will recommend prior authorization criteria for non-preferred drugs in the recommended classes.

The committee will be composed of 15 members including eleven physicians and four pharmacists who provide services to the Medicaid population in this state. Committee members will not be paid for their service but may receive mileage and subsistence.



The HHS Preferred Drug List program must include:

- procedures to ensure that a request for prior authorization that has no material defect or impropriety can be processed within twenty-four hours of receipt;
- procedures to allow the prescribing physician to request and receive notification of any delay or negative decision in regard to a prior authorization request;
- procedures to allow the prescribing physician to request and receive a second review of any denial of a prior authorization request; and
- procedures to allow a pharmacist to dispense an emergency, 72-hour supply of a drug requiring prior authorization without such prior authorization if the pharmacist:
  - has made a reasonable attempt to contact the prescribing physician and request that the prescribing physician secure prior authorization; and
  - reasonably believes that refusing to dispense a seventy-two-hour supply would unduly burden the Medicaid recipient and produce undesirable health consequences.

The bill provides that, after a physician has been granted a prior authorization by HHS for a drug, no further prior authorization for the same drug at the same dosage is required. The prior authorization covers all refills of the original prescription and subsequent prescriptions as long as the time allowed by the prior authorization has not expired.

A Medicaid recipient who has been denied prior authorization for a prescribed drug is entitled to appeal this decision through the department's appeals process.

The Committee reported favorable on **S.898**, a bill which **REWRITES THE PRACTICE ACT FOR NURSES TO MAKE IT CONFORM TO THE ADMINISTRATIVE FRAMEWORK ESTABLISHED FOR ALL BOARDS AND COMMISSIONS**

**ADMINISTERED BY THE DEPARTMENT OF LABOR, LICENSURE AND REGULATION (LLR).** The bill also makes the following substantive changes:

- Increases the Board of Nursing membership to 10 by adding a lay person to the board and provides the chair of the State Board Medical Examiners serves as an advisory, nonvoting member;
- Authorizes the Board to collect information to report disciplinary actions to national databanks of disciplinary information;
- Updates and clarifies definitions related to the practice of nursing and incorporates definitions already used in Board of Nursing regulations;
- Revises licensure of Advanced Practice Registered Nurses (APRN) to allow them to supervise Licensed Practical Nurses (LPN) and prescribe controlled

- substances in Schedules III-V if authorized in individualized practice protocols approved by both the Board of Nursing and the Board of Medical Examiners;
- Requires proof of proficiency in the English language for applicants and requires Commission on Graduates of Foreign Nursing Schools certificate for foreign educated registered nurse applicants;
- Redefines misconduct to include ethical violations and adds committing an act of moral turpitude as grounds for disciplinary action;
- Provides options for demonstrating continuing competency through continuing education, national certification or re-certification, and employer verified work history.

The Committee adjourned debate on **H.4640**, a bill concerning **MEMBERSHIP ON THE MEDICAL DISCIPLINARY COMMISSION OF THE STATE BOARD OF MEDICAL EXAMINERS**.

The Committee reported favorable with amendment on **H.4821**, a bill which **REWRITES THE PRACTICE ACT FOR OPTOMETRISTS TO MAKE IT CONFORM TO THE ADMINISTRATIVE FRAMEWORK ESTABLISHED FOR ALL BOARDS AND COMMISSIONS ADMINISTERED BY THE DEPARTMENT OF LABOR, LICENSURE AND REGULATION (LLR)**.

The bill also makes the following substantive changes:

- Requires confiscation of optical supplies used in the unlicensed practice of optometry;
- Revises the academic requirements for licensure to require a Bachelor of Arts or Science instead of just two academic years at an accredited college or university. This change is in addition to the existing requirement for graduation from a school of optometry;
- Provides for licensure by endorsement for optometrists licensed in another state if they meet all the same conditions for licensure as a therapeutically certified optometrist in S.C. and have not been disciplined in the other state; and
- Establishes a limited grandfather provision for basic certified optometrists and diagnostic certified optometrists. They may continue to practice until September 30, 2007. After that date all optometrists must meet the requirements for licensure as therapeutically certified optometrists.

Under current law, a basic certified optometrist is licensed to practice without the use of drugs for diagnostic or therapeutic purposes. A diagnostically certified optometrist may use certain drugs (anesthetics, mydriatics, cycloplegics, miotics, dyes, and over the counter drugs) for diagnostic procedures and miotics only for emergency purposes involving eyeball pressure. A diagnostically certified optometrist must comply with education requirements and pass a pharmaceutical agent examination approved by the board.



After September 30, 2007, all practicing optometrists will be required to be therapeutically certified. Under current law, therapeutic certification requires the following additional elements:

- pass the Treatment and Management of Ocular Disease Examination approved by the National Board of Examiners in Optometry;
- take at least 110 hours of board-approved optometric education courses since December 31, 1988, and after graduation from optometry school, of which at least 40 hours must have been clinical instruction specifically related to the diagnosis and treatment of glaucoma;
- have at least 1200 hours of clinical training.

## WAYS AND MEANS

The Ways and Means Committee reported favorable with amendment on **H.4901**, regarding **OPERATION OF A MARINE TERMINAL AT PORT ROYAL**. As reported by the Committee, this bill provides that the State Ports Authority has no statutory responsibility to operate a marine terminal at Port Royal, and requires that marine operations at Port Royal shall cease as soon as practicable. The bill also requires and provides for the State Ports Authority to sell all its real and personal property at Port Royal, and requires that terms of the sale, except for certain parcels which may be under long-term contract, may not extend beyond December 31, 2006. Provisions for sale of the property include, but are not limited to, a requirement that the property must be appraised and sold at fair market value. All proceeds from the sale must be retained by the State Ports Authority, except that the Town of Port Royal has the right to petition the Budget and Control Board and may be allocated a portion of up to five percent of the net proceeds. To receive these proceeds, the Town of Port Royal must show that the allocation is necessary to pay for infrastructure needs associated with the closing of the port.

The Committee adjourned debate on **H.4979**, the **TEXTILE COMMUNITIES REVITALIZATION ACT** (see **S.1075**, below).

The Committee reported favorable with amendment on **H.4440**, regarding **PROPERTY TAXES ON BOATS**. As reported by the Committee, this bill provides that a boat on which the interest portion of indebtedness is deductible under the Internal Revenue Code as an interest expense on a qualified primary or secondary residence is also a primary or secondary residence for purposes of property tax and is considered real property rather than personal property for property tax purposes. The bill also provides that the maximum *ad valorem* taxation on such a boat for any year is one thousand, five hundred dollars.

The Committee reported adjourned debate on **H.5009**, the **MIDDLE CLASS CHARITABLE CONTRIBUTION ACT**.

The Committee reported favorable on **H.4906**, regarding the State's **GENERAL RESERVE FUND**. Currently, State law requires the State Budget and Control Board

to provide for a General Reserve Fund, and requires that funds accumulating in excess of the annual operating expenditures must be transferred to the General Reserve Fund and the transfer must continue to be made in succeeding fiscal years until the accumulated total reaches three percent of the general fund revenue of the latest completed fiscal year. This bill provides that the transfer must continue until the accumulated total reaches three percent of the general fund, or such other percentage as may be required pursuant to Section 36, Article III of the Constitution of this State.

The Committee reported favorable on H.4907, also regarding the State's **GENERAL RESERVE FUND**. This joint resolution proposes to amend the State Constitution so as to require an additional amount equal to one percent of state general fund revenues in the latest completed fiscal year to be held in the General Reserve Fund each time the General Assembly enacts legislation which cumulatively has raised the then existing amount of state general fund revenues which may be used for annual debt service on state general obligation debt.

The Committee reported favorable with amendment on H.5086, the annual comprehensive **DEPARTMENT OF REVENUE TAXATION "CLEAN-UP" BILL**. This bill clarifies language, changes existing language by inserting omitted references and deleting obsolete sections, updates administrative procedures, and makes various other technical corrections to current law or procedure. The bill also **ALLOWS A COUNTY UNDER CERTAIN CONDITIONS TO POSTPONE IMPLEMENTATION OF A COUNTYWIDE REASSESSMENT FOR ONE TAX YEAR BY ORDINANCE**, and **EXTENDS, UNDER CERTAIN CONDITIONS, THE TEN YEAR CARRY-FORWARD PERIOD FOR UNUSED ECONOMIC IMPACT ZONE INVESTMENT TAX CREDITS AGAINST STATE INCOME TAX**. The bill also **REQUIRES AND PROVIDES FOR TAX COLLECTORS TO GIVE NOTICE TO MORTGAGEES WHEN MANUFACTURED OR MOBILE HOMES ARE LEVIED UPON FOR TAXES**, and requires tax collectors to keep records of such notice as provided in the bill. The bill requires that in order to be entitled to such notice, mortgagees must file with the tax collector a list of each mortgage as to which the notice is desired. The bill requires and provides for the tax collector to give notice of tax levy to any lienholders and provides requirements for lienholders to provide collateral lists to the tax collector. The bill also **PROVIDES AN EXEMPTION FROM SALES TAX FOR PRESCRIPTION AND OVER-THE-COUNTER MEDICINES AND MEDICAL SUPPLIES, INCLUDING DIABETIC SUPPLIES, SOLD TO A HEALTH CARE CLINIC THAT PROVIDES MEDICAL AND DENTAL CARE WITHOUT CHARGE TO ALL OF ITS PATIENTS**.

The Committee reported favorable with amendment on H.4310. As reported by the Committee, this bill provides that for purposes of property taxes, including certain assessment ratios provided pursuant to the South Carolina Constitution, **A TRAILER USED IN CAMPING AND RECREATIONAL TRAVEL, ON WHICH THE INTEREST PORTION OF PURCHASE MONEY DEBT IS DEDUCTIBLE PURSUANT TO THE INTERNAL REVENUE CODE AS AN INTEREST EXPENSE ON A QUALIFIED PRIMARY OR SECOND RESIDENCE, IS DEEMED A PRIVATE PASSENGER MOTOR VEHICLE**.

The Committee reported favorable with amendment on H.5027, a bill which **PROVIDES A METHOD FOR DETERMINING FAIR MARKET VALUE OF GOLF**



**COURSE REAL PROPERTY FOR PROPERTY TAX PURPOSES.** The bill requires the assessor to determine the fair market value of golf course real property by taking the average of the golf course gross revenues for the preceding three calendar years. Under the bill, golf course real property has a value of five hundred dollars an acre. The bill provides that the fair market value of golf course real property for *ad valorem* tax purposes is five hundred dollars per acre plus gross revenue multiplied by the gross revenue multiplier. The bill also provides for valuation of golf course property if there is less than three years of golf course revenue, and provides that the golf course owner has the right to appeal the valuation.

The Committee reported favorable with amendment on **H.4481**, the **SOUTH CAROLINA MILITARY PREPAREDNESS AND ENHANCEMENT ACT**. As reported by the Committee, this bill establishes within the Governor's Office the South Carolina Military Preparedness and Enhancement Commission, charged to:

- Advise the Governor and the General Assembly on military issues and economic and industrial development related to military issues;
- Make recommendations regarding: development of policies and plans to support the viability of the military in this State; development of methods to improve employment opportunities for former members of the military residing in this State; development of methods to assist defense-dependent communities with programs to enhance the community's relationship with military installations and defense-related businesses;
- Develop and maintain a database of all prime contractors and subcontractors operating in this State who perform defense-related work;
- Provide information to communities, government officials, and state agencies regarding federal actions affecting military installations and missions;
- Serve as a clearinghouse for certain issues and information relevant to the bill;
- Assist communities: who have experienced defense-related closures or realignment; in enhancing their relationship with military installations and defense-related businesses and in the recruitment and retention of such businesses;
- Prepare a biennial strategic plan as provided in the bill;
- Foster development in the State of industries related to defense affairs.

The Commission is required to report annually to the Governor and the General Assembly information regarding certain specified topics, including military economic impact information; a statewide assessment of military installations and missions; a statewide strategy to attract new military missions and defense-related businesses; a statement identifying programs and services which assist communities in retaining military installations, and missions and efforts to coordinate relevant state agency programs and services that assist communities with these efforts; an evaluation of initiatives to retain existing defense-related businesses; and a list of agencies that impact the operating costs or strategic value of federal military installations in the State.

The bill includes provisions regarding state agency cooperation with the provisions of the bill. The bill includes provisions regarding a defense community's military value enhancement statement to the Commission, and the bill provides procedures which the Commission must follow in working with the defense community pursuant to receipt of a military value enhancement statement.

The bill includes procedures and requirements for loans to be made available from the **South Carolina Military Value Revolving Loan Account** (the Loan Account), established in the bill to assist defense communities with eligible projects and to fund preparation of strategic impact plans stating a defense community's long-range goals and development proposals relating to the provisions of the bill. Funds for the Loan Account may come from the General Assembly, gifts, and grants. The bill delineates certain required information which defense communities must include in applications for financial assistance from the Loan Account.

The Committee reported favorable with amendment on **H.4127**, the **SOUTH CAROLINA RESTRUCTURING ACT OF 2004**. As reported by the Committee, this bill establishes the **Department of Administration** (the Department), an Executive Branch department headed by a director appointed by the Governor. Various offices, divisions, or components of the State Budget and Control Board (the Board), Office of the Governor, and other agencies are transferred to and incorporated into the Department, including: Facilities Management and Business Operations and Fleet Management programs of the Division of General Services; Offices of Executive Policy and Programs, Economic Opportunity, and Volunteer Services; Intergovernmental and Community Relations; Developmental Disabilities Council; Continuum of Care; Children's Foster Care; Veterans' Affairs; Commission on Women; Victims' Assistance; Ombudsman; and Small and Minority Business.

The bill also establishes (within the Board) and provides for the **Division of the Office of the State Chief Information Officer**, to be supervised by the **State Chief Information Officer**. The Division is created to provide leadership and direction for the use of information technology within South Carolina government. This division is charged to, among other things: develop a statewide plan for information technology; develop a process for review and approval of information technology initiatives and plans of governmental bodies; monitor information technology initiatives approved by the Board; develop policies, methods, standards, and procedures for management of information technology investments throughout their entire life cycles; oversee development of statewide information technology projects of governmental bodies; plan and forecast future needs for information technology; and evaluate information technology of governmental bodies to determine whether the merger of information technology and related resources is justified, as provided for in the bill.

The bill also creates and provides for the **Joint Information Technology Review Committee**, a joint committee of the General Assembly responsible for: reviewing reports and recommendations on information technology initiatives to determine if the expenditure of funds for the initiatives is justified; recommending to the Board information technology initiatives and priorities of future initiatives; and reporting to the General Assembly annually or upon request.



The bill also establishes and provides for the **Information Technology Business Case Review Panel** to review information technology initiatives of governmental bodies and advise the Chief Information Officer on development and implementation of information technology standards, policies, and procedures. The bill establishes and provides for the **Information Technology Architecture Oversight Panel** to advise the Chief Information Officer and to recommend and implement a process to assess if information technology initiatives adhere to the coordinated statewide strategic plan for information technology and the information technology plan of the governmental body proposing the information technology initiative, and to assess the soundness of the initiative.

The bill establishes and provides for an **Information Technology Innovation Fund** to be administered by the Division for the purpose of providing incentives to governmental bodies to implement enterprise information technology initiatives and electronic government projects. Monies for this fund would come from the state budget process and from grants, gifts, donations, or other money.

The bill creates and provides for the **Office of the State Inspector General** as a division within the Department of Administration to be headed by the **State Inspector General**, appointed by the Governor. This office and position are established to, among other things, find and eradicate fraud, waste, misconduct, and abuse within executive branch government agencies; keep heads of executive agencies and the Governor informed about such findings; and provide leadership and control over satellite Inspector General offices in designated executive agencies which would report to and operate under the Office of the State Inspector General. The bill requires the State Inspector General to report to and cooperate with the State Attorney General and the Board regarding violations of criminal law and regarding instances when a civil action should be initiated by the State.

The Committee reported favorable with amendment on **H.5043**, the **PUBLIC SCHOOLS INFRASTRUCTURE BANK ACT OF 2004**. As reported by the Committee, this bill creates the Public School Facilities Finance Authority (the Authority), governed by a six member Board, to provide assistance to school districts in securing financing for public school needs. The Authority is authorized to issue bonds to facilitate school construction projects, and to apply to the cost of projects funds derived from another source to be advanced to a district pursuant to a financing agreement or as a grant. In addition to other requirements for financing agreements, the bill requires that funds derived from a financing agreement for implementation of a project must be approved by the State Department of Education. The bill provides that bonds issued must be secured solely by and payable from school district payments as provided in the bill; the Board is not empowered to pledge the faith, credit, or taxing power of the State in connection with issuance of the bonds. Bonds issued by the authority may not have a scheduled maturity later than thirty years after the date of issuance.

The Committee reported favorable with amendment on **H.4747**. As reported by the Committee, this bill **AUTHORIZES THE DEPARTMENT OF SOCIAL SERVICES (DSS) TO TAKE CERTAIN ACTIONS, INCLUDING MONETARY PENALTIES, WHEN IT**



**DETERMINES THAT A FACILITY - INCLUDING CHILD CARE INSTITUTIONS, CHILDREN'S RESIDENTIAL GROUP HOMES, AND CHILD DAYCARE FACILITIES - IS IN VIOLATION OF ANY STATUTORY PROVISION OR REGULATION RELATING TO THE OPERATION OR MAINTENANCE OF THE FACILITY.** In addition to monetary penalties, actions authorized by the bill include denial or revocation of a license or other operating permit. the bill classifies violations according to their seriousness and delineates factors which DSS must consider when arriving at a decision to take enforcement actions. The bill requires and provides for written plans of correction to be entered into between DSS and the facility when DSS requires corrective action. The bill provides a schedule for determination of monetary penalties based upon the classification of the violation and the frequency of the violation within a 36-month period. Penalties range from \$100 to \$10,000.00. The bill requires that revenues from penalties must be credited to the State's general fund.

The Committee reported favorable with amendment on **H.5129**, a bill which **ESTABLISHES THE SOUTH CAROLINA SUNSET COMMISSION.** As reported by the Committee, this bill establishes and provides for the South Carolina Sunset Commission (the Commission) and a Sunset Review Division (the Division) of the Legislative Audit Council. The Division is established to conduct sunset reviews of certain state agency programs and to report on their determination as to whether the programs have outlived their usefulness or must be changed.

The bill provides for termination of the programs and functions of specific agencies for each year as provided in the bill beginning June 30, 2005, and continuing through June 30, 2016. The bill provides that the existence of any state agency or program may be reauthorized by the General Assembly for periods not to exceed twelve years. Newly created agencies shall exist for up to twelve years, or a lesser period of time if so designated by the General Assembly at the time of the agency's creation. The bill also provides for termination of an agency when legislation to reauthorize its existence is not enacted.

The Committee reported favorable with amendment on **S.1075**, the **TEXTILE COMMUNITIES REVITALIZATION ACT**, the purpose of which is to create an incentive for renovation, improvements, and redevelopment of abandoned textile mill sites in this State. As reported by the Committee, this bill provides, under specified conditions, that a taxpayer who improves, renovates, or redevelops an eligible site is eligible for either a tax credit against real property taxes levied by local taxing entities equal to twenty-five percent of the rehabilitation expenses made to the site times the local taxing entity ratio of each local taxing entity that has consented to the tax credit, or a credit against taxes to which the state's historic credit may apply equal to twenty-five percent of the rehabilitation expenses.

The Committee reported favorable with amendment on **S.45**. As reported by the Committee, this bill **ALLOWS THE LESSEE OF A VEHICLE TO RECEIVE A CREDIT OR REFUND ON PROPERTY TAXES PAID WHEN THEY ASSIGN THE LEASE OR SURRENDER THE LEASED VEHICLE TO THE LESSOR.** The bill also **EXEMPTS FROM PROPERTY TAX AN AMOUNT OF FAIR MARKET VALUE OF CERTAIN REAL PROPERTY SUFFICIENT TO ELIMINATE ANY VALUATION INCREASE ATTRIBUTABLE TO A COUNTYWIDE APPRAISAL AND EQUALIZATION PROGRAM.**



The exemption does not apply to value attributable to property or improvements not previously taxed; real property transferred after the year in which the most recent countywide equalization program was implemented (with certain exceptions); and real property valued for property tax purposes by the unit evaluation method. With each subsequent equalization and reassessment program, the value of the property, reduced by the amount of exemption granted under the bill, may not increase except in the year following a disqualifying transfer in ownership. When the property is no longer eligible for the exemption due to a transfer, the property will be taxed in the tax year following the transfer at market value based on the transfer of ownership or at the appraised value. The bill includes a requirement for closing attorneys to notify buyers at real estate transfers that the property may be subject to taxation at fair market value during the next tax year. The bill outlines procedures for qualifying for the exemption and includes penalties for a person who signs a certification declaring that the property is eligible, obtains the exemption, and is subsequently found to be ineligible. The bill also provides for a task force to be appointed in 2014 by the Speaker of the House and the President *Pro Tempore* of the Senate to study the effects of these provisions on homeowners and on the real estate industry, and report findings and recommendations to the General Assembly by January 2015.

The Committee adjourned debate on H.4908, the **SOUTH CAROLINA PUT PARENTS IN CHARGE ACT**.

## **BILLS INTRODUCED IN THE HOUSE THIS WEEK**

### **EDUCATION AND PUBLIC WORKS**

#### **S.848 AUTHORIZED EMERGENCY VEHICLES Sen. Verdin**

This bill provides a revised definition for "authorized emergency vehicles" and provides that only authorized emergency vehicles and certain private security patrol vehicles may use or display blue or red lights. The bill also prohibits the display on a vehicle of the word "police" unless it is an authorized emergency vehicle for use only by sworn officers approved and certified by the South Carolina Criminal Justice Academy.

## JUDICIARY

### **H.5147 SOUTH CAROLINA SPAM CONTROL ACT Rep. J. E. Smith**

This bill provides for protection from fraudulent transmission and routing of electronic mail by establishing felonies for the falsification of information as to origin, header, registration of domain names, and right to use protocol addresses. The bill provides for the forfeiture of real or personal property used in connection with violations of the act. The legislation provides for civil remedies in an action to be brought by the Attorney General or an Internet service provider, including damages, injunctive relief, and civil fines. The legislation provides for personal jurisdiction in this state and investigative authority in the Attorney General and the judicial circuit solicitors. The legislation provides for the crime of falsification of information in connection with a commercial electronic message transmission.

### **S.570 FINANCIAL IDENTITY FRAUD Sen. Martin**

This bill eliminates as an element of financial identity fraud a person's intent to unlawfully appropriate the financial resources of a person, and provides instead the requirement that the action is performed knowingly and willfully. The legislation prohibits the printing of more than the last five digits of a credit card or debit card number on a receipt by an entity that accepts credit cards or debit cards for the transaction of business.

### **S.814 SALE OF RETAIL MERCURY FEVER THERMOMETERS PROHIBITED Sen. Alexander**

This bill provides that it is unlawful for a person to sell or supply, including through the Internet, retail mercury fever thermometers. Exceptions are provided. A violator is guilty of a misdemeanor and, upon conviction, must be fined up to five hundred dollars.

### **S.935 PARDONS Sen. Hawkins**

This bill revises provisions relating to definitions used with regard to a pardon, so as to provide that a specific provision of law may limit the effect of a pardon. The bill revises provisions relating to the restoration of civil rights lost as a result of conviction, so as to provide that certain criminal history background reviews are not affected by a pardon.

### **H.5155 GOVERNMENTAL HEALTH CARE FACILITY UNDER THE TORT CLAIMS ACT Rep. White**

This bill definition "governmental health care facility" under the Tort Claims Act, so as to include in the definition a nursing home that provides services through Medicaid, Medicare, or by contract with the Veterans Administration and those services constitute at least twenty-five percent of the gross revenue.

### **S.773 "UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT" Sen. Hayes**

This bill enacts the Uniform Child Custody Jurisdiction and Enforcement Act so as to adopt a uniform act revising procedures for establishing and enforcing child



custody and visitation when one of the parties resides in this state and the other does not.

## WAYS AND MEANS

### **S.1075 "SOUTH CAROLINA TEXTILE COMMUNITIES REVITALIZATION ACT" Sen. Short**

This bill enacts the "South Carolina Textile Communities Revitalization Act," intended to create an incentive for the renovation, improvement, and redevelopment of abandoned textile mill sites. The bill authorizes and provides for a taxpayer who improves, renovates, or redevelops such an eligible site to receive a property tax credit equal to twenty-five percent of the rehabilitation expenses made to the eligible site times the local taxing entity ratio of each local taxing entity that has consented to the tax credit as provided in the bill.

### **H.5151 BINGO Rep. Scott**

This bill makes numerous revisions to the sections relating to regulation of bingo games.

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